

SUBJECT: Valuation of farm, ranch and timber land on productive value rather than market value.

COMMITTEE: Agriculture and Livestock, do pass, complete substitute.

VOTE: 11 ayes: Hubenak, Kubiak, F. Green, Coody, Denton, T. Garcia, Jones, Keese, McBee, E. Martin, Patterson.

0 nays:

WITNESSES: For: Pat Smith, Texas Farm Bureau; T. A. Cunningham, president, Independent Cattlemen's Association of Texas; Jay Naman, president, Texas Farmers' Union; Robert B. Baker, Dept. of Forest Science, Texas A & M University; etc.

Against: None.

DIGEST: HB 22 sets up a new system for-valuing all "open-space land" in Texas at productive rather than market values for property taxation. Open-space land is defined as all land with a five-year history of use for farming, ranching or timber production, plus all land pledged by the owner for such use in the future. The comptroller is ordered to develop procedures and a manual for use by all taxing jurisdictions in the state. All land will be classified by category--soil type, weather and other factors--and assigned an average income ("net to land") for the previous five years, based on ordinary prudent management for such land. That average income will be divided by the capitalization rate to determine the productive value of the land. The capitalization rate is 10 per cent (.10) or an amount equal to 2 per cent greater than the average variable interest rate set by the Federal Land Bank of Houston for the previous tax year, whichever is greater. Local appraisers will also be required to determine the full market value for all open space land. The productive value can never be set higher- than the market value. The productive value of timber land can never be set lower than its value for the 1977 tax year, unless that value is higher than market value. The owner of land taken out of farming, ranching or forestry must pay taxes for the previous five years at the market values for those years, plus a 5 per cent annual penalty.

PRO: Big Texas cities are surrounded by some of the best farm land in the state. But urban growth is pushing up the price of this fertile land. Property taxes go up as the "speculative" price rises. The taxes frequently go higher than the income of the land from agriculture. The owner is then forced to sell. This good land is taken out of production and used for a subdivision, shopping center or Taco Bell. Thousands of acres are being lost to agriculture this way, and eventually the state and nation will suffer from this loss of food and fiber.

The same thing happens in other parts of the state when the price of land is bid "artificially" high by recreation users and other non-agriculturalists.

The obvious solution is to take away the excessive pressure on the property tax by appraising farm, ranch and timber property at productive rather than market values. More than 35 states have already done this.

Taxation on productivity is not "preferential" for agriculture--it's simply a better-way to set the "true" value. Apartments, office buildings and other income-producing property are often appraised this way now. In remote farm regions unaffected by the "speculative" buying, agricultural value and market value are almost the same. Farmers elsewhere in the state deserve the same treatment.

Besides, it's not fair for farmers and ranchers to pay property taxes on the full market value of their investments in land when city dwellers with stocks, bonds and other intangibles escape taxation altogether. Productivity values would help balance that inequity in the tax system.

Since the purpose of HB 22 is to keep land in production, it would be wrong to try to limit the benefits to natural persons, partnerships or small corporations. Big corporations deserve the same incentives to keep the crops, cattle and timber growing.

There's no perfect guarantee that some speculators won't buy some cows and claim the benefits of HB 22 while they hold land for a profit. But the five-year tax rollback is a good, practical way to prevent abuse. Most speculators sell in less than five years, anyway.

This bill also deserves to be passed so the new system can be put into effect quickly if voters approve the necessary constitutional amendment. If the voters say no, the bill will never go into effect, so there's no harm in passing it.

CON: Property tax incentives for farmers don't work. And they're unfair to other taxpayers.

"When farm land around a growing city is converted to a shopping center, an apartment development or a motel site, there should be nothing mysterious about the cause," says Frederick D. Stocker, professor of economics and public administration at Ohio State University. "It is good old American profit seeking." He and other experts agree--high property taxes are a symptom, not a cause, of the urban land problem, and low property taxes won't stop a farmer from accepting \$10,000 an acre for the back 40 when it's offered.

Like it or not, farmers near growing cities are automatically "speculators." The taxes go up, all right, but not nearly so fast as the asking price for the land. If the taxes exceed farm income and the farmer doesn't have spare cash, he is forced to sell--at a profit--to another speculator (a professional, this time) who can afford the costs of the investment. But, sooner or later, even if the farmer has enough money to hold the property, the pressure to sell becomes irresistible.

The property tax break is actually a five-year "loan" to the farmer (written off the sixth year) to help him hold the property awhile longer. But it absolutely will not stop an eventual sale when the price is right. In effect, the government has subsidized the farmer's speculation.

If agricultural land gets a tax preference, the developer who buys the land may decide to keep the cows grazing--at least until the bulldozer gets there.

HB 22 would not just help family farmers. The weekend hobby farmers, the rich tax farmers and the big corporate farmers would also get lower taxes. In fact, the lower taxes would tend to drive rural land prices up because the investment would become more attractive. Poor, but honest, farmers would find it harder than ever to scrape up the money to outbid the doctors and lawyers from Houston and Dallas.

Lower taxes for farmers, ranchers and timber growers will mean higher taxes for everyone else--especially homeowners, businesses and industry. Somebody still has to pay for the schools, the roads and other services.

The "ag-use" values would also most likely be used in the school finance system. That, alone, would send millions of state dollars from urban to rural districts.

The productivity gimmick would also gum up the property tax laws, which are already complicated enough and filled with too many exemptions. Local officials would have to appraise every piece of land two different ways.

"Preferential assessment is at best a weak policy instrument," says Stocker. "It is fraught with inequities, arbitrary distinctions and administrative headaches. It works indiscriminately on land that should be developed as well as on that which should not. What it does best is to further enrich a segment of the population that is already profiting very nicely from rising land values."

COMMENTS: 1) HB 22 is contingent legislation. It would go into effect only if the Legislature passes and the voters approve a companion constitutional amendment that authorizes the Legislature to "establish separate formulas for appraising land to promote the preservation of open-space land devoted to farm or ranch purposes."

2) That proposed constitutional amendment would replace the much-criticized agricultural exemption passed in 1966. It is limited to "natural persons" who apply annually and who earn at least 51 per cent of their personal income from the land. Timber is not included.

3) HB 22 is substantially the same as HB 1535, the productivity bill passed in 1975 and contingent on passage of the appropriate article of the proposed new state constitution, which failed.

4) HB 22 would reduce the value of agricultural land to \$9.6 billion from \$49.1 billion, according to estimates from the governor's office.

5) The comptroller's office estimates the cost of administering HB 22 at \$1.2 million the first two years. The Legislative Budget Board said there would be no additional cost.

6) For some local jurisdictions, the impact of HB 22 might be dramatic, the comptroller's office said, but the effect on state property tax revenues would be "negligible." The reason is that most county tax offices already carry rural property at low values.

7) Low appraisals for rural land are a tradition in Texas, despite constitutional mandates for taxation at full value. HB 22--rather than being a sharp departure from past practice--would, in fact, institutionalize rural tax preferences in the law, but in a much more orderly and uniform way. The alternatives are to leave things as they are or to go all the way to full market valuation.